

Message Text

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FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC 7618

INFO AMCONSUL BOMBAY

AMCONSUL CALCUTTA

AMCONSUL MADRAS

C O N F I D E N T I A L NEW DELHI 3868

E.O. 11652: GDS

TAGS: PINT, IN

SUBJECT: MRS. GANDHI'S IN COURT

REF: NEW DELHI 3683

1. MRS. GANDHI HAS JUST COMPLETED TWO DAYS OF TESTIMONY (MARCH 18 AND 19) ON HER OWN BEHALF IN THE THREE AND A HALF YEAR OLD ALLAHABAD HIGH COURT HEARING ON AN ELECTION PETITION BROUGHT BY HER OPPONENT IN THE 1971 ELECTION: BHARTIYA LOK DAL POLITICIAN RAJ NARAIN. THE EXCHANGE BETWEEN MRS. GANDHI AND NARAIN'S COUNSEL TOTALLED SIX HOURS. SECURITY ARRANGEMENTS WERE EXTENSIVE. ON THE FIRST DAY, A JOURNALIST WITH A CONCEALED REVOLVER WAS ARRESTED BY THE POLICE AFTER ENTERING THE COURTROOM.

2. IN HIS QUESTIONING OF THE PRIME MINISTER, NARAIN'S COUNSEL CONCENTRATED ON ESTABLISHING THAT MRS. GANDHI'S LONG-TIME POLITICAL CONFIDANT YASHPAL KAPOOR WAS EMPLOYED BY THE GOI IN THE PRIME MINISTER'S SECRETARIAT WHILE WORKING AS HER CHIEF ELECTION AGENT. (AS MENTIONED IN REFTEL, IF ACCEPTED BY THE COURT, THE CHARGE WOULD NULLIFY THE PRIME MINISTER'S ELECTION AND FORCE HER TO DEFER RUNNING
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FOR PUBLIC OFFICE FOR SIX YEARS.) WHILE NOT DENYING

ACCUSATIONS (SUPPORTED BY SUBSTANTIAL EVIDENCE) THAT KAPOOR HAD BEGUN ACTIVELY CAMPAIGNING IN HER CONSTITUENCY IN MID-JANUARY, MRS. GANDHI ARGUED THAT SHE HAD NOT CONCLUSIVELY DECIDED TO RUN IN THE CONSTITUENCY UNTIL FEBRUARY 1 AND CLAIMED IT WAS ONLY THEREAFTER THAT SHE APPOINTED HIM AS HER CHIEF ELECTION AGENT. SHE INSISTED UNDER CROSS-EXAMINATION THAT KAPOOR'S CANVASSING WAS "ON HIS OWN" AND DONE WITHOUT HER KNOWLEDGE OR ACQUIESCENCE. WHEN NARAIN'S CONSUL DRAMATICALLY PRESENTED A JANUARY 29, 1971 WRITTEN ALL-INDIA CONGRESS COMMITTEE (AICC) DECISION SPECIFICALLY ASSIGNING HER THE CONSTITUENCY THAT WAS SIGNED BY HER, SHE RESPONDED THAT THE AICC DECISION WAS IN FACT A PROVISIONAL ONE, SUBJECT TO HER FINAL DECISION WHICH WAS MADE THREE DAYS LATER.

3. THE PRIME MINISTER'S REBUTTAL OF NARAIN'S OTHER CHARGES, INCLUDING VIOLATION OF EXPENDITURE LIMITATIONS, WERE MORE WATERTIGHT. SHE CATEGORICALLY DISASSOCIATED HERSELF FROM THE ELECTION EXPENDITURES MADE ON HER BEHALF DURING THE CAMPAIGN (LAST FALL'S ORDINANCE APPLIED THE STATUTORY \$4,000 LIMITATION ONLY TO CANDIDATES SPENDING ON THEIR OWN BEHALF AND NOT TO POLITICAL PARTIES AND INDIVIDUALS SUPPORTING CANDIDATES).

4. PRESS COMMENTARY ON THE TRIAL AND NEAR-COMPLETE TRANSCRIPTS WHICH WE HAVE SEEN INDICATE THAT MRS. GANDHI DID WELL ON THE WITNESS STAND, THOUGH THE PETITIONER'S COUNSEL DID FIND SOME WEAKNESSES IN HER TESTIMONY ON KAPOOR. THE PRIME MINISTER'S PERSONAL APPEARANCE IN COURT WILL PROVIDE HER WITH SOME AMMUNITION TO USE AGAINST GROWING CRITICISM THAT SHE IS BECOMING INCREASINGLY AUTHORITARIAN.

5. THE HIGH COURT'S FINAL DECISION IS NOT EXPECTED BEFORE AUGUST 1, AND CONCEIVABLY NOT BEFORE 1977. NO ONE IN DIPLOMATIC AND POLITICAL CIRCLES HERE IS BETTING THAT THE FINAL JUDGMENT WILL GO BEYOND AN ADMONISHMENT TO POLITICIANS AND LEGISLATORS TO REFORM THE COUNTRY'S LIBERAL AND WEAKLY ADMINISTERED ELECTORAL LAWS.

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